

AMENDED IN SENATE AUGUST 18, 2008

AMENDED IN SENATE JUNE 19, 2008

AMENDED IN SENATE MAY 20, 2008

AMENDED IN SENATE MAY 5, 2008

AMENDED IN SENATE APRIL 9, 2008

AMENDED IN ASSEMBLY APRIL 30, 2007

AMENDED IN ASSEMBLY MARCH 29, 2007

AMENDED IN ASSEMBLY MARCH 22, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 239**

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**Introduced by Assembly Member DeSaulnier**  
**(Coauthors: Assembly Members Beall, Brownley, Leno, Parra,**  
**Portantino, Solorio, and Torrico)**

January 31, 2007

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An act to amend Sections 4990, 4990.18, 4990.30, and 4990.38 of, and to add Chapter 10.5 (commencing with Section 4700) to Division 2 of, the Business and Professions Code, ~~and to add Section 11776.5 to the Health and Safety Code~~, relating to alcoholism and drug abuse counselors.

### LEGISLATIVE COUNSEL'S DIGEST

AB 239, as amended, DeSaulnier. Alcoholism and drug abuse counselors.

Existing law provides for the licensure and regulation of marriage and family therapists, social workers, and educational psychologists by

the Board of Behavioral Sciences, in the Department of Consumer Affairs. Existing law provides that the Board of Behavioral Sciences consists of 11 members, makes that provision inoperative on July 1, 2009, and repeals it on January 1, 2010. Existing law declares the intent of the Legislature that the board employ its resources for, among other things, the licensure of marriage and family therapists, clinical social workers, and educational psychologists. Existing law authorizes a licensed marriage and family therapist and a marriage and family therapist intern, among others, whose license or registration has been revoked to petition the board for reinstatement or modification of the penalty. Existing law also authorizes the board to deny an application or suspend or revoke a license or registration issued under the provisions it administers and enforces for any disciplinary action imposed by another state or territory or possession of the United States, or by a governmental agency, on a license, certificate, or registration to practice marriage and family therapy, clinical social work, educational psychology, or any other healing art.

This bill would enact the Alcoholism and Drug Abuse Counselors Licensing Law and provide for the licensure and regulation of alcoholism and drug abuse counselors by the Board of Behavioral Sciences. The bill would, after January 1, 2011, add one licensed alcoholism and drug abuse counselor to the board, to be appointed by the Governor. The bill would also add an additional public member to the board, to be appointed by the Governor. The bill would require the board ~~and to solicit the advice of representatives of the State Department of Alcohol and Drug Programs to enter into a memorandum of understanding~~ to address how each agency will work with the other to plan, oversee, and regulate alcohol and drug *abuse* treatment, as specified. The bill would declare the intent of the Legislature that the board also employ its resources for the licensure of alcoholism and drug abuse counselors and would authorize a licensed alcoholism and drug abuse counselor whose license has been revoked to petition the board for reinstatement or modification of the penalty. The bill would authorize the board to deny an application or suspend or revoke an alcoholism and drug abuse counselor license for any disciplinary action imposed by another state or territory or possession of the United States, or by a governmental agency. The bill would enact various related provisions regarding the practice of licensed alcoholism and drug abuse counselors, including, but not limited to, licensing requirements, scope of practice, conditions for license renewals, and grounds for revocation or

suspension of a license. The bill would authorize the board to deny, suspend, or revoke a license if the applicant or licensee has been guilty of unprofessional conduct and would specify that unprofessional conduct includes engaging in specified acts with a minor regardless of whether the act occurred prior to or after the time the registration or license was issued by the board, and would apply this provision to acts that occurred prior to the effective date of the bill. The bill would make it unlawful for an unlicensed person to, among other things, use the title of a licensed alcoholism and drug abuse counselor or engage in certain acts that constitute the practice of alcoholism and drug abuse counseling, as specified. The bill would exempt various persons from its provisions, including persons who engage in the practice of alcoholism and drug abuse counseling as an employee or volunteer at a facility or program administered, licensed, or certified by a governmental agency or that contracts with a court, probation department, county jail, or the Department of Corrections and Rehabilitation to provide specified services. The bill would make a violation of any of these provisions a crime and would thereby impose a state-mandated local program.

The bill would authorize the board to impose various fees on licensed alcoholism and drug abuse counselors, as specified, which would be deposited in the Behavioral Sciences Fund and be made available to the board upon appropriation by the Legislature. The bill would require that startup funds to implement these provisions be derived, as a loan, from the reserve of that fund, subject to an appropriation by the Legislature, and would specify that the board shall not be required to implement these provisions until those funds are appropriated.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

1 (a) The practice of alcoholism and drug abuse counseling affects  
2 the public health, safety, and welfare, and is, therefore, subject to  
3 regulation in the public's interest.

4 (b) California's alcoholism and drug abuse treatment system is  
5 in crisis. The lack of adequate standards and accountability  
6 undermines consumer confidence in alcoholism and drug abuse  
7 counselor services in both the public and private arenas.

8 (c) The practice of alcoholism and drug abuse counseling is  
9 regulated in 30 states by way of mandated licensure or certification.  
10 California continues to fall behind these states in oversight and  
11 required training and education.

12 (d) National standards of education for alcoholism and drug  
13 abuse counselors require a minimum of 270 hours of education  
14 that is alcohol and other drug specific and 4,000 hours of  
15 experience. These national standards are consistent in 48 states.  
16 California standards are fragmented at best and are considered by  
17 many experts to be the lowest in the nation.

18 (e) The State Department of Alcohol and Drug Programs  
19 implemented modest counselor certification regulations in 2005.  
20 These minimal state regulations do not, however, apply to private  
21 practitioners treating alcoholism and drug abuse.

22 (f) The lack of licensure of alcoholism and drug abuse  
23 counselors in California has severely limited the growth of private  
24 sector treatment options, thereby leaving the state as the first  
25 provider of care rather than the safety net.

26 (g) Alcoholism and drug abuse heavily impact a majority of  
27 state services, including corrections, welfare, hospital and  
28 emergency room care, and education, costing California billions  
29 of dollars every year.

30 (h) Deaths and injuries resulting from incompetent care of those  
31 suffering from alcoholism or drug abuse have reached record levels.

32 (i) Unlicensed persons are currently treating alcoholism and  
33 drug abuse cases without a defined scope of practice and without  
34 making appropriate referrals to other trained professionals for  
35 underlying and co-occurring issues.

36 (j) Therefore, it is the intent of the Legislature to provide for  
37 licensure of alcoholism and drug abuse counselors in this state by  
38 enacting the Alcoholism and Drug Abuse Counselors Licensing  
39 Law.

(k) It is further the intent of the Legislature that the licensure provisions set forth in this act be applicable only to alcoholism and drug abuse counselors practicing in private practice settings and not to those practicing in residential facilities or outpatient programs administered, certified, or licensed by a governmental agency.

SEC. 2. Chapter 10.5 (commencing with Section 4700) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 10.5. ALCOHOLISM AND DRUG ABUSE COUNSELORS

4700. This chapter shall be known and may be cited as the Alcoholism and Drug Abuse Counselors Licensing Law.

4701. The Board of Behavioral Sciences shall administer and enforce this chapter.

4702. For purposes of this chapter, the following terms have the following meanings:

(a) "Board" means the Board of Behavioral Sciences.

(b) "IC&RC" means the International Certification & Reciprocity Consortium/Alcohol & Other Drug Abuse, Inc., an organization comprised of domestic and international organizations involved in credentialing and licensing alcohol and other drug abuse counselors.

(c) "Licensed alcoholism and drug abuse counselor I" means a person licensed by the board to practice alcoholism and drug abuse counseling under clinical supervision.

(d) "Licensed alcoholism and drug abuse counselor II" means a person licensed by the board to conduct an independent practice of alcoholism and drug abuse counseling and to provide supervision to other alcoholism and drug abuse counselors.

(e) "Applicant" means an unlicensed person who has completed the education requirements for licensure, as specified in this chapter, and is currently in the examination process.

(f) "Experience" means completed work within the practice of alcoholism and drug abuse counseling, as defined in subdivision (a) of Section 4720.

(g) "Clinical supervision" means the ongoing process of direct review of a supervisee for the purpose of ensuring administrative accountability, enhancing training and education, and ensuring quality control. The direct review shall be performed by a qualified

1 supervisor who monitors the performance of acts within the  
2 practice of alcoholism and drug abuse counseling, as defined in  
3 subdivision (a) of Section 4720, and provides regular consultation,  
4 guidance, and instruction with respect to the counseling skills and  
5 competencies of the supervisee.

6 (h) "Advertise" includes, but is not limited to, the issuance of  
7 any card, sign, or device to any person, or the causing, permitting,  
8 or allowing of any sign or marking on, or in, any building or  
9 structure, or in any newspaper or magazine or in any directory, or  
10 any printed matter, with or without any limiting qualification. It  
11 also includes business solicitations communicated by radio or  
12 television broadcasting. Signs within church buildings or notices  
13 in church bulletins mailed to a congregation shall not be construed  
14 as advertising within the meaning of this chapter.

15 (i) "Student" means an unlicensed person who is currently  
16 enrolled in a course of education that is designed to qualify him  
17 or her for licensure under this chapter and who has completed no  
18 less than 12 semester units or 18 quarter units of coursework in  
19 any qualifying educational program.

20 4703. In order to carry out the provisions of this chapter, the  
21 board shall do, but shall not be limited to, all of the following:

22 (a) Adopt rules and regulations to implement this chapter.

23 (b) Issue licenses beginning January 1, 2011.

24 (c) Take disciplinary action against a licensee where appropriate,  
25 including, but not limited to, reprimand or probation, suspension,  
26 or revocation of the license, or imposition of fines or fees.

27 (d) Establish continuing education requirements for licensees.

28 (e) Establish procedures for the receipt, investigation, and  
29 resolution of complaints against licensees.

30 (f) Establish criteria to determine whether the curriculum of an  
31 educational institution satisfies the licensure requirements imposed  
32 by this chapter.

33 (g) Establish parameters of unprofessional conduct for licensees  
34 that are consistent with generally accepted ethics codes for the  
35 profession.

36 (h) Establish standards of competency for licensees that are  
37 consistent with generally accepted national standards for the  
38 practice of alcoholism and drug abuse counseling.

39 (i) Establish reinstatement procedures for an expired or revoked  
40 license.

1 (j) Establish supervision and supervisory requirements for  
2 students.

3 (k) Establish supervision and supervisory requirements for  
4 supervisors of a licensed alcoholism and drug abuse counselor I  
5 performing services in a private practice setting.

6 (l) Establish qualifications and responsibilities for licensed  
7 professionals who receive client referrals through the referral  
8 process described in Section 4723.

9 (m) Establish coursework required to obtain a license, including,  
10 but not limited to, coursework in law and ethics, psychopathology,  
11 methodology treatments, cultural diversity, psychopharmacology,  
12 anger management and domestic violence, interviewing techniques,  
13 and conflict resolution.

14 4704. (a) Nothing in this chapter shall be construed to constrict,  
15 limit, or withdraw the Medical Practice Act (Chapter 5  
16 (commencing with Section 2000)), the Nursing Practice Act  
17 (Chapter 6 (commencing with Section 2700)), the Psychology  
18 Licensing Act (Chapter 6.6 (commencing with Section 2900)), the  
19 Marriage and Family Therapist Act (Chapter 13 (commencing  
20 with Section 4980)), or the Clinical Social Worker Practice Act  
21 (Chapter 14 (commencing with Section 4991)).

22 (b) This chapter shall not apply to the following:

23 (1) A student, provided that the activities and services he or she  
24 performs as a student, consistent with Section 4713, constitute part  
25 of the student's supervised course of study and provided that, when  
26 performing those services, he or she is designated by the title  
27 "student." A student may gain hours of experience outside the  
28 required practicum.

29 (2) A person who engages in the practice of alcoholism and  
30 drug abuse counseling, as defined in Section 4720, if the person  
31 is otherwise qualified to engage in that practice and is employed  
32 or volunteers at a facility or program administered, licensed, or  
33 certified by a governmental agency, including, but not limited to,  
34 the State Department of Alcohol and Drug Programs or the  
35 Department of Corrections and Rehabilitation.

36 (3) A person who is a member of a peer or self-help group who  
37 performs peer group or self-help activities if the person does not  
38 use a title stating or implying that he or she is a licensed alcohol  
39 and drug abuse counselor or any other designation listed in  
40 subdivision (a) of Section 4721.1.

1 (4) A cleric or other religious leader who provides advice and  
2 guidance to members of his or her congregation or order free of  
3 charge.

4 (5) A director, officer, or staff member of a program described  
5 in Section 8001 of the Penal Code.

6 (6) A person who engages in the practice of alcohol and drug  
7 abuse counseling, as defined in Section 4720, if the person is  
8 otherwise qualified and is employed by, or volunteers at, a facility  
9 or program that contracts with a court, probation department,  
10 county jail, or the Department of Corrections and Rehabilitation  
11 to provide services for persons in a drug court program or a  
12 deferred entry of judgment or preguilty plea program, as described  
13 in Chapter 2.5 (commencing with Section 1000) of Title 6 of Part  
14 2 of the Penal Code.

15 (7) A person who provides treatment or counseling to persons  
16 who were directed to engage in treatment or counseling pursuant  
17 to a court order.

18 (c) A licensee shall display his or her license in a conspicuous  
19 place in the licensee's primary place of practice.

20 (d) A licensed alcoholism and drug abuse counselor who  
21 conducts a private practice under a fictitious business name shall  
22 not use any name that is false, misleading, or deceptive and shall  
23 inform his or her clients, prior to the commencement of treatment,  
24 of the name and license designation of the owner or owners of the  
25 practice.

26 (e) A licensee shall give written notice to the board of a name  
27 change within 30 days after each change, giving both the old and  
28 new names. A copy of the legal document authorizing the name  
29 change, such as a court order or marriage certificate, shall be  
30 submitted with the notice.

31 4705. (a) The board shall issue an alcoholism and drug abuse  
32 counselor II license to a person who meets all of the following  
33 requirements:

34 (1) Completes an application for a license, and submits the  
35 application to the board between January 1, 2011, and December  
36 31, 2011.

37 (2) Pays the fees prescribed by the board.

38 (3) Obtains current certification by an organization recognized  
39 by the State Department of Alcohol and Drug Programs and



1 accredited by the National Commission on Certifying Agencies  
2 (NCCA).

3 (4) Is a high school graduate or possesses a general education  
4 development equivalent.

5 (5) Completes at least 315 hours of classroom instruction in  
6 alcoholism and drug abuse counseling, including, but not limited  
7 to, a 45-hour classroom practicum course offered by a provider  
8 approved by the board and the other courses prescribed by the  
9 board pursuant to subdivision (m) of Section 4703.

10 (6) Completes at least 255 hours of fieldwork in a clinically  
11 supervised practicum.

12 (7) Passes the written examination required pursuant to Section  
13 4709.

14 (8) Completes at least six hours of education in supervision  
15 techniques.

16 (9) Completes at least six hours of education in the subject of  
17 law and ethics as it relates to a licensee's ability to practice  
18 alcoholism and drug abuse counseling safely. This education may  
19 include, but shall not be limited to, education in the legal and  
20 regulatory aspects of chemical dependency treatment, regulatory  
21 restrictions, confidentiality, issues surrounding clients' rights, and  
22 standards of competency for the practice of alcoholism and drug  
23 abuse counseling.

24 (10) Completes at least 10 hours of education in the recognition  
25 of co-occurring disorders, referral processes, and the evaluation  
26 of clients using placement criteria, such as the ASAM Patient  
27 Placement Criteria, to determine the most appropriate level of care  
28 for a client and a client's eligibility for admission to a particular  
29 alcoholism and drug abuse treatment program.

30 (11) Produces documentation of either of the following:

31 (A) At least 10,000 hours of experience in direct alcoholism  
32 and drug abuse counseling services, including 4,000 hours of  
33 experience in clinical supervision.

34 (B) At least 10,000 hours of experience in direct alcoholism  
35 and drug abuse counseling services and current licensure in a  
36 mental health field requiring at least a master's degree.

37 (b) The term of a license issued under this section is two years.  
38 The license may be renewed upon application to the board, showing  
39 proof of completion of the required continuing education, and  
40 payment of the renewal fee prescribed by the board. If a person

1 licensed under this section fails to renew the license on or before  
2 the expiration date of the license, the person shall be required to  
3 meet the requirements listed in subdivision (a) of Section 4706 in  
4 order to obtain a new license.

5 4706. (a) On and after January 1, 2012, the board shall issue  
6 an alcoholism and drug abuse counselor II license to a person who  
7 meets all of the following requirements:

8 (1) Completes an application for a license.

9 (2) Pays the fees prescribed by the board.

10 (3) Passes the written examination required pursuant to Section  
11 4709.

12 (4) Holds a master's degree in alcoholism and drug abuse  
13 counseling, or a clinically-focused mental health field approved  
14 by the board, obtained from a school, college, or university that,  
15 at the time the degree was conferred, was accredited by the Western  
16 Association of Schools and Colleges or an equivalent regional  
17 accrediting agency approved by the United States Department of  
18 Education. The degree shall include at least 18 semester units, or  
19 equivalent quarter units, in counseling or counseling-related  
20 subjects and 255 hours of supervised practicum experience.

21 (5) Completes at least 315 hours of classroom instruction in  
22 alcoholism and drug abuse counseling, including, but not limited  
23 to, a 45-hour classroom practicum course offered by a provider  
24 approved by the board and the other courses prescribed by the  
25 board pursuant to subdivision (m) of Section 4703.

26 (6) Completes at least six hours of education in supervision  
27 techniques.

28 (7) Completes at least six hours of education in the subject of  
29 law and ethics as it relates to a licensee's ability to practice  
30 alcoholism and drug abuse counseling safely. This education may  
31 include, but shall not be limited to, education in the legal and  
32 regulatory aspects of chemical dependency treatment, regulatory  
33 restrictions, confidentiality, issues surrounding clients' rights, and  
34 standards of competency for the practice of alcoholism and drug  
35 abuse counseling.

36 (8) Completes at least 10 hours of education in the recognition  
37 of co-occurring disorders, referral processes, and the evaluation  
38 of clients using placement criteria, such as the ASAM Patient  
39 Placement Criteria, to determine the most appropriate level of care

1 for the client and eligibility for admission to a particular alcoholism  
2 and drug abuse treatment program.

3 (9) Obtains at least 6,000 hours of experience in direct  
4 alcoholism and drug abuse counseling services.

5 (b) The term of a license issued under this section is two years.  
6 The license may be renewed upon application to the board, showing  
7 proof of completion of the required continuing education, and  
8 payment of the renewal fee prescribed by the board.

9 4707. (a) The board shall issue an alcoholism and drug abuse  
10 counselor I license to a person who meets all of the following  
11 requirements:

12 (1) Completes an application for a license, and submits the  
13 application to the board between January 1, 2011, and December  
14 31, 2011.

15 (2) Pays the fees prescribed by the board.

16 (3) Obtains current certification by an organization recognized  
17 by the State Department of Alcohol and Drug Programs and  
18 accredited by the National Commission on Certifying Agencies  
19 (NCCA).

20 (4) Is a high school graduate or possesses a general education  
21 development equivalent.

22 (5) Completes at least 315 hours of classroom instruction in  
23 alcoholism and drug abuse counseling, including, but not limited  
24 to, a 45-hour classroom practicum course offered by a provider  
25 approved by the board.

26 (6) Completes at least 255 hours of fieldwork in a clinically  
27 supervised practicum.

28 (7) Completes at least 4,000 hours of clinically supervised  
29 experience.

30 (8) Passes the written examination required pursuant to Section  
31 4709.

32 (b) The term of a license issued under this section is two years.  
33 The license may be renewed upon application to the board, showing  
34 proof of completion of the required continuing education, and  
35 payment of the renewal fee prescribed by the board. If a person  
36 licensed under this section fails to renew the license on or before  
37 the expiration date of the license, the person shall be required to  
38 meet the requirements listed in subdivision (a) of Section 4708 in  
39 order to obtain a new license.

1     4708. (a) On and after January 1, 2012, the board shall issue  
2     an alcoholism and drug abuse counselor I license to a person who  
3     meets all of the following requirements:

4     (1) Completes an application for a license.

5     (2) Pays the fees prescribed by the board.

6     (3) Holds a bachelor's degree from a school, college, or  
7     university that, at the time the degree was conferred, was accredited  
8     by the Western Association of Schools and Colleges or an  
9     equivalent regional accrediting agency approved by the United  
10    States Department of Education.

11    (4) Completes a minimum of 315 hours of classroom instruction  
12    in alcoholism and drug abuse counseling, including, but not limited  
13    to, a 45-hour classroom practicum course offered by a provider  
14    approved by the board and the courses prescribed by the board  
15    pursuant to subdivision (m) of Section 4703.

16    (5) Completes a minimum of 255 hours of fieldwork in a  
17    clinically supervised practicum.

18    (6) Completes at least 4,000 hours of clinically supervised  
19    experience.

20    (7) Passes the written examination required pursuant to Section  
21    4709.

22    (b) The term of a license issued under this section is two years.  
23    The license may be renewed upon application to the board, showing  
24    proof of completion of the required continuing education, and  
25    payment of the renewal fee prescribed by the board.

26    4709. The board shall evaluate the written examination offered  
27    by the IC&RC prior to its use to determine whether it meets the  
28    criteria required by Section 139 and is adequate at measuring the  
29    skills and knowledge required to deliver safe and effective  
30    alcoholism and drug abuse counseling services. If the examination  
31    offered by the IC&RC does not meet the criteria of Section 139,  
32    the board shall develop an alternate or supplemental examination.  
33    However, the board may develop an alternate or supplemental  
34    examination if it otherwise deems necessary. If an alternate or  
35    supplemental examination is developed, the written examination  
36    offered by the IC&RC shall be used until that alternate or  
37    supplemental examination is adopted. Examinations shall be given  
38    at least twice a year at a time and place and under supervision as  
39    the board may determine.

1     4710. (a) An applicant who fails an examination may take  
2 subsequent examinations upon payment of the required  
3 examination fee.

4     (b) The board may establish the criteria under which an applicant  
5 may take subsequent examinations.

6     4711. The board may issue an alcoholism and drug abuse  
7 counselor I or II license to any person who, at the time of  
8 application, has held for at least two years a valid license issued  
9 by a board of alcoholism and drug abuse counseling, or  
10 corresponding authority, of any state, if the education and  
11 supervised experience requirements are substantially equivalent  
12 to the respective requirements for an alcoholism and drug abuse  
13 counselor I or II license imposed under this chapter and the person  
14 successfully completes the written examination required pursuant  
15 to Section 4709, and pays the required fee.

16     4712. (a) Experience gained outside of California shall be  
17 accepted toward the licensure requirements if it is substantially  
18 equivalent to that required by this chapter.

19     (b) Education gained while residing outside of California shall  
20 be accepted toward the licensure requirements if it is substantially  
21 equivalent to the education requirements of this chapter.

22     4713. All hours of experience gained as a student shall be  
23 coordinated between the school and the site where the hours are  
24 being accrued. The school shall approve each site and shall have  
25 a written agreement with each site that details each party's  
26 responsibilities, including the methods by which supervision shall  
27 be provided. The agreement shall provide for regular progress  
28 reports and evaluations of the student's performance at the site. If  
29 an applicant has gained hours of experience while enrolled in a  
30 school other than the one that confers the qualifying degree, it shall  
31 be the applicant's responsibility to provide to the board satisfactory  
32 evidence that those hours of student experience were gained in  
33 compliance with this chapter.

34     4720. (a) A licensee may engage in the practice of alcoholism  
35 and drug abuse counseling. For purposes of this chapter, the  
36 "practice of alcoholism and drug abuse counseling" means  
37 performing any of the following services for the purpose of treating  
38 alcoholism and drug abuse:

1 (1) Screening. The process by which a client is determined to  
2 be eligible for admission to a particular alcoholism and drug abuse  
3 treatment program.

4 (2) Initial intake. The administrative and initial assessment  
5 procedures for admission to an alcoholism and drug abuse  
6 treatment program. Assessment shall not include psychological  
7 testing intended to measure or diagnose mental illness.

8 (3) Orientation. Describing to the client the general nature and  
9 goals of the alcoholism and drug abuse treatment program,  
10 including rules governing client conduct and infractions that can  
11 lead to disciplinary action or discharge from the program.

12 (4) Alcoholism and drug abuse counseling, including individual,  
13 group, and significant others. The utilization of special skills to  
14 assist individuals, families, or groups in achieving objectives  
15 through exploration of a problem and its ramifications, examination  
16 of attitudes and feelings, considerations of alternative solutions  
17 and decisionmaking as each relates to substance abuse. Counseling  
18 shall be limited to assisting a client in learning more about himself  
19 or herself for the purposes of understanding how to effectuate  
20 clearly perceived, realistically defined goals related to abstinence.  
21 Counseling is limited to assisting the client to learn or acquire new  
22 skills that will enable the client to cope and adjust to life situations  
23 without the use of substances.

24 (5) Case management. Activities that bring services, agencies,  
25 resources, or individuals together within a planned framework of  
26 action toward achievement of established goals. It may involve  
27 liaison activities and collateral contacts.

28 (6) Crisis intervention. Those services that respond to an alcohol  
29 or drug abuser's needs during acute emotional or physical distress,  
30 including, but not limited to, referrals for assessment of the client's  
31 need for additional psychological or medical treatment for client  
32 behaviors that signal risk or prolonged distress.

33 (7) Assessment. Those procedures by which a counselor or  
34 program identifies and evaluates an individual's strengths,  
35 weaknesses, problems, and needs for the development of the  
36 alcoholism and drug abuse treatment plan.

37 (8) Treatment planning. The process by which the counselor  
38 and the client identify and rank problems needing resolution,  
39 establish agreed-upon immediate and long-term goals, and decide  
40 on a treatment process and the resources to be utilized.

1 (9) Client education. Providing information to individuals and  
2 groups concerning alcohol and other drugs of abuse and the  
3 services and resources available.

4 (10) Referral. Identifying the needs of the client that cannot be  
5 met by the counselor or agency, as well as assisting the client in  
6 utilizing the support systems and community resources available.

7 (11) Reports and recordkeeping. Documenting the client's  
8 progress in achieving the client's goals.

9 (12) Consultation with other professionals with regard to client  
10 treatment or services. Communicating with other professionals to  
11 ensure comprehensive, quality care for the client.

12 (b) A licensee may perform the acts listed in this section only  
13 for the purpose of treating alcoholism and drug abuse.

14 4721. (a) The scope of practice for a licensed alcoholism and  
15 drug abuse counselor II shall include both of the following:

16 (1) The services described in subdivision (a) of Section 4720.

17 (2) Clinical supervision of licensed alcoholism and drug abuse  
18 counselors I.

19 (b) The scope of practice for a licensed alcoholism and drug  
20 abuse counselor I shall include the services described in subdivision  
21 (a) of Section 4720.

22 (1) A licensed alcoholism and drug abuse counselor I performing  
23 the services described in subdivision (a) of Section 4720 in a  
24 private practice setting shall, pursuant to Section 4722, do so under  
25 the supervision of a licensed alcoholism and drug abuse counselor  
26 II or other clinical supervisor, as defined in Section 4722 or as  
27 deemed appropriate by the board.

28 (2) A licensed alcoholism and drug abuse counselor I may  
29 perform the acts listed in subdivision (a) of Section 4720 in  
30 hospitals, agencies, or other facilities where alcoholism or drug  
31 abuse services are delivered without supervision in accordance  
32 with the laws and regulations governing the facilities.

33 4721.1. (a) (1) It shall be unlawful for a person to do any of  
34 the following unless he or she is licensed pursuant to this chapter:

35 (A) Engage in any of the acts described in paragraph (3), (4),  
36 (6), (7), (8), (10), (11), or (12) of subdivision (a) of Section 4720  
37 with regard to alcoholism and drug abuse.

38 (B) Operate a private practice in alcoholism and drug abuse  
39 counseling or represent himself or herself as, or use the title or  
40 designation of, alcoholism counselor, alcohol counselor, drug

1 counselor, alcohol and drug counselor, alcoholism and drug  
2 counselor, licensed clinical alcohol and drug counselor, certified  
3 alcohol and drug counselor, substance abuse counselor, chemical  
4 dependency counselor, addictions counselor, certified addictions  
5 counselor, certified addictions specialist or chemical dependency  
6 supervisor, or any abbreviations for the above titles.

7 (C) Make use of any title, words, letters, or abbreviations that  
8 may reasonably be confused with a designation provided by this  
9 chapter to denote a standard of professional or occupational  
10 competence.

11 (2) It shall be unlawful for a person to represent himself or  
12 herself by the title licensed alcoholism and drug abuse counselor  
13 I or II, LADC I, or LADC II unless he or she holds the  
14 corresponding license pursuant to this chapter.

15 (b) Nothing in this chapter shall prevent a physician and surgeon  
16 licensed pursuant to Chapter 5 (commencing with Section 2000),  
17 a psychologist licensed pursuant to Chapter 6.6 (commencing with  
18 Section 2900), a marriage and family therapist licensed pursuant  
19 to Chapter 13 (commencing with Section 4980), or a clinical social  
20 worker licensed pursuant to Chapter 14 (commencing with Section  
21 4991) from providing services within their scope of practice.  
22 However, these persons shall not use a title stating or implying  
23 that they are licensed alcohol and drug abuse counselors or any  
24 other designation listed in subdivision (a) unless they are licensed  
25 pursuant to this chapter.

26 (c) A licensee shall not engage in the practice of psychology,  
27 as defined in Section 2903, the practice of marriage and family  
28 therapy, as defined in Section 4980.02, or the practice of clinical  
29 social work, as defined in Section 4996.2, unless he or she is  
30 accordingly licensed to engage in that practice.

31 4722. (a) A licensed alcoholism and drug abuse counselor I  
32 performing services in a private practice setting shall be supervised  
33 by a clinical supervisor, which may include licensed alcoholism  
34 and drug abuse counselors II, marriage and family therapists,  
35 licensed clinical social workers, licensed psychologists, licensed  
36 physicians and surgeons certified in psychiatry by the American  
37 Board of Psychiatry and Neurology, or physicians and surgeons  
38 who have completed a residency but are not yet board certified in  
39 psychiatry. All clinical supervisors of licensed alcoholism and



1 drug abuse counselors I shall have at least 4,000 hours of direct  
2 treatment experience in substance abuse and addiction.

3 (b) A clinical supervisor of an alcoholism and drug abuse  
4 counselor I shall have a written agreement with the supervisee  
5 describing the planned hours of practice, supervision schedule,  
6 nature of work assignments, and other specifications that the  
7 supervisor reasonably deems appropriate to the supervisee's level  
8 of training.

9 (c) A clinical supervisor shall evaluate a supervisee at least  
10 annually, emphasizing his or her strengths and shortcomings as  
11 well as areas in which the supervisee should pursue additional  
12 knowledge or skill development. These evaluations shall be signed  
13 by both the supervisor and the supervisee and copies shall be  
14 retained by both for seven years. The board may request copies of  
15 these evaluations.

16 (d) Clinical supervision conducted pursuant to this section shall  
17 include at least 50 hours of face-to-face supervision per year,  
18 averaging one hour per week. As necessary, clinical supervisors  
19 shall make themselves available to each supervisee for face-to-face  
20 consultations or consultations via telephone or other electronic  
21 means.

22 (e) A clinical supervisor shall be limited to no more than five  
23 supervisees at a time, unless specifically authorized by the board  
24 to supervise additional supervisees.

25 (f) An alcoholism and drug abuse counselor I shall conduct  
26 business in the same work setting as their clinical supervisor subject  
27 to regulation by the board.

28 (g) An alcoholism and drug abuse counselor I shall disclose all  
29 of the following to a client prior to performing a professional  
30 service:

31 (1) That he or she is licensed by the State of California and  
32 under the supervision of a licensed alcoholism and drug abuse  
33 counselor II or a licensed mental health professional.

34 (2) That he or she will refer the client to another licensed  
35 professional within 14 days pursuant to Section 4723.

36 (3) The extent of his or her education or training.

37 4723. (a) (1) Licensed alcoholism and drug abuse counselors  
38 providing services in a private practice setting shall refer all clients  
39 for an initial assessment to one of the following professionals

1 within 14 days of intake to assess any co-occurring needs or  
2 disorders:

3 (A) A marriage and family therapist.

4 (B) A licensed clinical social worker.

5 (C) A licensed psychologist.

6 (D) A licensed physician and surgeon certified in psychiatry by  
7 the American Board of Psychiatry and Neurology.

8 (E) A licensed physician and surgeon who has completed a  
9 residency but is not yet board certified in psychiatry.

10 (F) Any other licensed professional approved by the board.

11 (2) Referrals made pursuant to this subdivision shall be  
12 documented in the client's chart.

13 (3) A professional receiving a referral under this section shall,  
14 with the written consent of the client, provide to the referring  
15 alcoholism and drug abuse counselor a signed, written report that  
16 includes assessment results and treatment and referral  
17 recommendations. The referring alcoholism and drug abuse  
18 counselor shall place this report in the client's chart.

19 (b) A licensee shall, in an effective and safe fashion, demonstrate  
20 the ability to refer patients in need of services that go beyond the  
21 scope of practice of alcoholism and drug abuse counseling. The  
22 licensee shall maintain current referral information for the services  
23 he or she is prohibited from providing under subdivision (c) of  
24 Section 4721.1.

25 (c) During the course of the screening and intake process, a  
26 licensed alcoholism and drug abuse counselor, working within his  
27 or her scope of practice, shall determine the level of care most  
28 appropriate for the client and the need for integrated treatment in  
29 the presence of medical, emotional, and behavioral conditions.  
30 This determination shall be based on the client's state of  
31 intoxication or withdrawal, the presence of other conditions, relapse  
32 potential, the nature of the recovery environment, and other client  
33 issues, including, but not limited to, legal, financial, or housing  
34 issues.

35 (d) *If the licensed alcoholism and drug abuse counselor properly*  
36 *refers a client as required in subdivision (a), the counselor shall*  
37 *not be deemed to be practicing illegally based solely on the client's*  
38 *refusal or failure to follow up on the referral.*

39 4724. The board may deny a license, or may suspend or revoke  
40 a license, if the applicant or licensee has been guilty of

1 unprofessional conduct. Unprofessional conduct shall include, but  
2 not be limited to, the following:

3 (a) The conviction of a crime substantially related to the  
4 qualifications, functions, or duties of a licensee under this chapter.  
5 The record of conviction shall be conclusive evidence only of the  
6 fact that the conviction occurred. The board may inquire into the  
7 circumstances surrounding the commission of the crime in order  
8 to fix the degree of discipline or to determine if the conviction is  
9 substantially related to the qualifications, functions, or duties of a  
10 licensee under this chapter. A plea or verdict of guilty or a  
11 conviction following a plea of nolo contendere made to a charge  
12 substantially related to the qualifications, functions, or duties of a  
13 licensee under this chapter shall be deemed to be a conviction  
14 within the meaning of this section. The board may order any license  
15 suspended or revoked, or may deny a license when the time for  
16 appeal has elapsed or the judgment of conviction has been affirmed  
17 on appeal, or when an order granting probation is made suspending  
18 the imposition of sentence, irrespective of a subsequent order under  
19 Section 1203.4 of the Penal Code allowing the person to withdraw  
20 a plea of guilty and enter a plea of not guilty, or setting aside the  
21 verdict of guilty, or dismissing the accusation, information, or  
22 indictment.

23 (b) Securing a license by fraud, deceit, or misrepresentation on  
24 an application for licensure submitted to the board, whether  
25 engaged in by an applicant for a license, or by a licensee in support  
26 of an application for licensure.

27 (c) Administering to himself or herself any controlled substance  
28 or using any of the dangerous drugs specified in Section 4022, or  
29 any alcoholic beverage to the extent, or in a manner, as to be  
30 dangerous or injurious to the person applying for a license or  
31 holding a license under this chapter, or to any other person, or to  
32 the public, or, to the extent that the use impairs the ability of the  
33 person applying for or holding a license to conduct with safety to  
34 the public the practice authorized by the license. The board shall  
35 deny an application for a license or revoke the license of any person  
36 who uses or offers to use drugs in the course of performing  
37 alcoholism and drug abuse counseling services.

38 (d) Gross negligence or incompetence in the performance of  
39 alcoholism and drug abuse counseling services.

1 (e) Violating, attempting to violate, or conspiring to violate any  
2 of the provisions of this chapter or any regulation adopted by the  
3 board.

4 (f) Misrepresentation as to the type or status of a license held  
5 by the person, or otherwise misrepresenting or permitting  
6 misrepresentation of his or her education, professional  
7 qualifications, or professional affiliations to any person or entity.

8 (g) Impersonation of another by a licensee or applicant for a  
9 license or allowing any other person to use his or her license.

10 (h) Aiding or abetting, or employing, directly or indirectly, any  
11 unlicensed person to engage in conduct for which a license is  
12 required under this chapter.

13 (i) Intentionally or recklessly causing physical or emotional  
14 harm to a client.

15 (j) The commission of a dishonest, corrupt, or fraudulent act  
16 substantially related to the qualifications, functions, or duties of a  
17 licensee.

18 (k) Engaging in sexual relations with a client, or a former client  
19 within two years following termination of services, soliciting sexual  
20 relations with a client, or committing an act of sexual abuse or  
21 sexual misconduct with a client, or committing an act punishable  
22 as a sexually related crime, if that act or solicitation is substantially  
23 related to the qualifications, functions, or duties of an alcoholism  
24 and drug abuse counselor.

25 (l) Performing, or holding oneself out as being able to perform,  
26 or offering to perform, any professional services beyond the scope  
27 of the license authorized by this chapter.

28 (m) Failure to maintain confidentiality, except as otherwise  
29 required or permitted by law, of all information that has been  
30 received from a client in confidence during the course of treatment  
31 and all information about the client which is obtained from tests  
32 or other means.

33 (n) Prior to the commencement of treatment, failing to disclose  
34 to the client or prospective client the fee to be charged for the  
35 professional services, or the basis upon which that fee will be  
36 computed.

37 (o) Paying, accepting, or soliciting any consideration,  
38 compensation, or remuneration, whether monetary or otherwise,  
39 for the referral of professional clients. All consideration,  
40 compensation, or remuneration shall be in relation to professional

1 counseling services actually provided by the licensee. Nothing in  
2 this subdivision shall prevent collaboration among two or more  
3 licensees in a case or cases. However, no fee shall be charged for  
4 that collaboration, except when disclosure of the fee has been made  
5 in compliance with subdivision (n).

6 (p) Advertising in a manner that is false, misleading, or  
7 deceptive.

8 (q) Reproduction or description in public, or in any publication  
9 subject to general public distribution, of any psychological test or  
10 other assessment device, the value of which depends in whole or  
11 in part on the naivete of the subject, in ways that might invalidate  
12 the test or device.

13 (r) Any conduct in the supervision of an unlicensed employee,  
14 student, or volunteer by a licensee that violates this chapter or any  
15 rules or regulations adopted by the board.

16 (s) Performing or holding oneself out as being able to perform  
17 professional services beyond the scope of one's competence, as  
18 established by one's education, training, or experience. This  
19 subdivision shall not be construed to expand the scope of the  
20 license authorized by this chapter.

21 (t) Receipt of credible justification that a licensed alcoholism  
22 and drug abuse counselor is performing services outside of his or  
23 her scope of practice or is negligent in making referrals for  
24 co-occurring disorders.

25 (u) Failure to keep records consistent with sound clinical  
26 judgment, the standards of the profession, and the nature of the  
27 services being rendered.

28 (v) (1) Engaging in an act described in Section 261, 286, 288a,  
29 or 289 of the Penal Code with a minor or an act described in  
30 Section 288 or 288.5 of the Penal Code regardless of whether the  
31 act occurred prior to or after the time the registration or license  
32 was issued by the board. An act described in this subdivision  
33 occurring prior to the effective date of this subdivision shall  
34 constitute unprofessional conduct and shall subject the licensee to  
35 refusal, suspension, or revocation of a license under this section.

36 (2) The Legislature hereby finds and declares that protection of  
37 the public, and in particular minors, from sexual misconduct by a  
38 licensee is a compelling governmental interest, and that the ability  
39 to suspend or revoke a license for sexual conduct with a minor  
40 occurring prior to the effective date of this section is equally

1 important to protecting the public as is the ability to refuse a license  
2 for sexual conduct with a minor occurring prior to the effective  
3 date of this section.

4 4725. (a) Except as provided in subdivisions (b), (c), and (e),  
5 any accusation filed against a licensee pursuant to Section 11503  
6 of the Government Code shall be filed within three years from the  
7 date the board discovers the alleged act or omission that is the  
8 basis for disciplinary action, or within seven years from the date  
9 the alleged act or omission that is the basis for disciplinary action  
10 occurred, whichever occurs first.

11 (b) An accusation filed against a licensee pursuant to Section  
12 11503 of the Government Code alleging the procurement of a  
13 license by fraud or misrepresentation is not subject to the  
14 limitations set forth in subdivision (a).

15 (c) The limitation provided for by subdivision (a) shall be tolled  
16 for the length of time required to obtain compliance when a report  
17 required to be filed by the licensee with the board pursuant to  
18 Article 11 (commencing with Section 800) of Chapter 1 is not filed  
19 in a timely fashion.

20 (d) If an alleged act or omission involves a minor, the seven-year  
21 limitations period provided for by subdivision (a) and the 10-year  
22 limitations period provided for by subdivision (e) shall be tolled  
23 until the minor reaches the age of majority. However, if the board  
24 discovers an alleged act of sexual contact with a minor under  
25 Section 261, 286, 288, 288.5, 288a, or 289 of the Penal Code after  
26 the limitations periods described in this subdivision have otherwise  
27 expired, and there is independent evidence that corroborates the  
28 allegation, an accusation shall be filed within three years from the  
29 date the board discovers that alleged act.

30 (e) An accusation filed against a licensee pursuant to Section  
31 11503 of the Government Code alleging sexual misconduct shall  
32 be filed within three years after the board discovers the act or  
33 omission alleged as the grounds for disciplinary action, or within  
34 10 years after the act or omission alleged as the grounds for  
35 disciplinary action occurs, whichever occurs first.

36 (f) The limitations period provided by subdivision (a) shall be  
37 tolled during any period if material evidence necessary for  
38 prosecuting or determining whether a disciplinary action would  
39 be appropriate is unavailable to the board due to an ongoing  
40 criminal investigation.

1 (g) For purposes of this section, “discovers” means the later of  
2 the occurrence of any of the following with respect to each act or  
3 omission alleged as the basis for disciplinary action:

4 (1) The date the board received a complaint or report describing  
5 the act or omission.

6 (2) The date, subsequent to the original complaint or report, on  
7 which the board became aware of any additional acts or omissions  
8 alleged as the basis for disciplinary action against the same  
9 individual.

10 (3) The date the board receives from the complainant a written  
11 release of information pertaining to the complainant’s diagnosis  
12 and treatment.

13 4726. (a) An applicant for a license under this chapter shall  
14 consent to a criminal history background check. Refusal to consent  
15 to the criminal history background check constitutes grounds for  
16 denial of the license.

17 (b) Before issuing a license to an applicant, the board shall  
18 ensure that the state and national criminal history of the applicant  
19 is reviewed.

20 (c) If an applicant’s criminal history background check reveals  
21 one or more convictions, the applicant shall not automatically be  
22 denied a license. With regard to each conviction, the board shall  
23 consider all of the following factors in determining whether to  
24 issue a license:

25 (1) The level of seriousness of the crime committed.

26 (2) The date that the crime was committed.

27 (3) The age of the applicant at the time of conviction.

28 (4) The circumstances surrounding the commission of the crime,  
29 if known.

30 (5) The nexus between the criminal conduct and the duties of  
31 a licensed alcoholism and drug abuse counselor.

32 (6) The applicant’s prison, jail, probation, parole, rehabilitation,  
33 and employment records since the date the crime was committed.

34 (d) If the board denies a license based on an applicant’s criminal  
35 history background check, the board may disclose to the applicant  
36 the information contained in the background check that is relevant  
37 to the denial.

38 (e) The applicant shall have the right to appear before the board  
39 to appeal a decision made by the board pursuant to this section.

1     4727. The board shall renew an unexpired license of a licensee  
2 who meets the following qualifications:

3     (a) Has applied for renewal on a form prescribed by the board  
4 and paid the required renewal fee.

5     (b) Has certified compliance with continuing education  
6 requirements imposed by Section 4728.

7     (c) Has notified the board whether he or she has been subject  
8 to, or whether another board has taken, disciplinary action since  
9 the last renewal.

10    4728. (a) The board shall not renew any license pursuant to  
11 this chapter unless the licensee certifies to the board, on a form  
12 prescribed by the board, that he or she has completed, during the  
13 previous two years, not less than 60 hours of continuing education  
14 coursework that is offered by a board-approved provider and that  
15 is in or relevant to the field of alcoholism and drug abuse  
16 counseling. The board may require licensees to take specific  
17 coursework, including, but not limited to, coursework concerning  
18 supervisory training, as a condition of license renewal.

19     (b) The board shall have the right to audit the records of any  
20 licensee to verify the completion of the continuing education  
21 requirement. Licensees shall maintain records of completion of  
22 required continuing education coursework for a minimum of two  
23 years and shall make these records available to the board for  
24 auditing purposes upon request.

25     (c) The continuing education shall be obtained from one of the  
26 following sources:

27     (1) A school, college, or university accredited by the Western  
28 Association of Schools and Colleges or an equivalent regional  
29 accrediting agency approved by the United States Department of  
30 Education. Nothing in this section shall be construed as requiring  
31 coursework to be offered as part of a regular degree program.

32     (2) Other continuing education providers approved by the board,  
33 including, but not limited to, a certified counseling association, a  
34 licensed health facility, a governmental entity, a continuing  
35 education unit of an accredited four-year institution of higher  
36 learning, or a mental health professional association.

37     (d) The board shall establish, by regulation, a procedure for  
38 approving providers of continuing education courses. The board  
39 may refuse to approve continuing education credit for courses



1 offered by providers who fail to comply with the requirements of  
2 this section or any regulation adopted pursuant to this section.

3 (e) Training, education, and coursework offered by approved  
4 providers shall incorporate one or more of the following:

5 (1) Aspects of the discipline that are fundamental to the  
6 understanding or the practice of alcoholism and drug abuse  
7 counseling.

8 (2) Aspects of the discipline of alcoholism and drug abuse  
9 counseling in which significant recent developments have occurred.

10 (3) Aspects of other disciplines that enhance the understanding  
11 or the practice of alcoholism and drug abuse counseling.

12 (f) The board shall, by regulation, fund the administration of  
13 this section through continuing education provider fees to be  
14 deposited in the Behavioral Sciences Fund. The fees related to the  
15 administration of this section shall be sufficient to meet, but shall  
16 not exceed, the costs of administering the corresponding provisions  
17 of this section.

18 4729. The board may renew an expired license for a former  
19 licensee who meets the following qualifications:

20 (a) Applies for renewal on a form prescribed by the board within  
21 three years of the expiration date of the license.

22 (b) Pays the renewal fees that would have been paid if the license  
23 had not been delinquent.

24 (c) Pays all delinquency fees.

25 (d) Certifies compliance with continuing education requirements.

26 (e) Notifies the board whether he or she has been subject to, or  
27 whether another board has taken, disciplinary action since the last  
28 renewal.

29 4730. A license that is not renewed within three years after its  
30 expiration may not be renewed, restored, reinstated, or reissued  
31 thereafter, but the former licensee may apply for and obtain a new  
32 license if all of the following are satisfied:

33 (a) No fact, circumstance, or condition exists that, if the license  
34 were issued, would justify its revocation or suspension.

35 (b) He or she pays the fees that would be required if he or she  
36 were applying for a license for the first time.

37 (c) He or she meets the current requirements for licensure as a  
38 licensed alcoholism and drug abuse counselor II or a licensed  
39 alcoholism and drug abuse counselor I under Section 4706 or 4708,  
40 respectively.

1     4731. A suspended license is subject to expiration and may be  
2 renewed as provided in this chapter, but the renewal does not entitle  
3 the licensee, while it remains suspended and until it is reinstated,  
4 to engage in the activity to which the license relates, or in any  
5 other activity or conduct in violation of the order or judgment by  
6 which it was suspended.

7     4732. A revoked license is subject to expiration as provided  
8 in this chapter, but it may not be renewed. If it is reinstated after  
9 its expiration, the licensee shall, as a condition precedent to its  
10 reinstatement, pay a reinstatement fee in an amount equal to the  
11 renewal fee in effect on the last regular renewal date before the  
12 date on which it is reinstated, plus the delinquency fee, if any,  
13 accrued at the time of its revocation.

14     4733. A licensed alcoholism and drug abuse counselor may  
15 apply to the board to request that his or her license be placed on  
16 inactive status. A licensee who holds an inactive license shall pay  
17 a biennial fee of one-half of the active renewal fee and shall be  
18 exempt from continuing education requirements specified in  
19 subdivision (a) of Section 4728, but shall otherwise be subject to  
20 this chapter and shall not engage in the practice of alcoholism and  
21 drug abuse counseling in this state. A licensee on inactive status  
22 who has not committed any acts or crimes constituting grounds  
23 for denial of licensure may, upon his or her request, have his or  
24 her license to practice alcoholism and drug abuse counseling placed  
25 on active status. A licensee requesting his or her license to be  
26 placed on active status at any time between a renewal cycle shall  
27 pay the remaining one-half of the renewal fee. A licensee  
28 requesting to reactivate from an inactive status whose license will  
29 expire less than one year from the date of the request shall be  
30 required to complete 30 hours of continuing education for license  
31 renewal. A licensee requesting to reactivate from an inactive status  
32 whose license will expire more than one year from the date of the  
33 request shall be required to complete 60 hours of continuing  
34 education for license renewal.

35     4734. The board may deny a license whenever it appears that  
36 an applicant may be unable to practice his or her profession safely  
37 due to mental illness or chemical dependency. The procedures set  
38 forth in Article 12.5 (commencing with Section 820) of Chapter  
39 1 of Division 1 shall apply to any denial of a license pursuant to  
40 this section.

1     4735. (a) The board may place a licensee on probation under  
2 the following circumstances:

3     (1) Instead of, or in addition to, any order of the board  
4 suspending or revoking the license of the licensee.

5     (2) Upon the issuance of a license to an individual who has  
6 engaged in unprofessional conduct, but who has otherwise  
7 completed all licensure requirements relating to education, training,  
8 and experience.

9     (3) As a condition upon the reissuance or reinstatement of any  
10 license that has been suspended or revoked by the board.

11     (b) The board may adopt regulations establishing a monitoring  
12 program to ensure compliance with any terms or conditions of  
13 probation imposed by the board pursuant to this section. The cost  
14 of probation or monitoring may be ordered to be paid by the  
15 licensee or applicant.

16     (c) The board, in its discretion, may require any licensee who  
17 has been placed on probation, or whose license has been suspended,  
18 to obtain additional professional training, and to pass an  
19 examination upon completion of that training, and to pay any  
20 necessary examination fee. The examination may be written or a  
21 practical or clinical examination.

22     4736. (a) A licensed alcoholism and drug abuse counselor  
23 whose license has been revoked or suspended, or who has been  
24 placed on probation, may petition the board for reinstatement or  
25 modification of the penalty, including modification or termination  
26 of probation, after a period not less than the following minimum  
27 periods has elapsed from the effective date of the decision ordering  
28 the disciplinary action, or if the order of the board, or any portion  
29 of it, is stayed by the board itself, or by the superior court, from  
30 the date the disciplinary action is actually implemented in its  
31 entirety:

32     (1) At least three years for reinstatement of a license that was  
33 revoked for unprofessional conduct, except that the board may, in  
34 its sole discretion at the time of adoption, specify in its order that  
35 a petition for reinstatement may be filed after two years.

36     (2) At least two years for early termination of any probation  
37 period of three years or more.

38     (3) At least one year for modification of a condition, or  
39 reinstatement of a license revoked for mental or physical illness,  
40 or termination of probation of less than three years.

(b) The petition may be heard by the board itself, or the board may assign the petition to an administrative law judge pursuant to Section 11512 of the Government Code. The board shall give notice to the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of production and proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition. The board, when it is hearing the petition itself, or an administrative law judge sitting in for the board, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time his or her license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability.

(c) The hearing may be continued from time to time as the board or the administrative law judge deems appropriate.

(d) The board itself, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision. In a decision granting a petition reinstating a license or modifying a penalty, the board itself, or the administrative law judge, may impose any terms and conditions that the agency deems reasonably appropriate, including those set forth in Sections 823 and 4737. Where a petition is heard by an administrative law judge sitting alone, the administrative law judge shall prepare a proposed decision and submit it to the board.

(e) The board may take action with respect to the proposed decision and petition as it deems appropriate.

(f) The petition shall be on a form provided by the board, and shall state any facts and information as may be required by the board including, but not limited to, proof of compliance with the terms and conditions of the underlying disciplinary order.

(g) The petitioner shall pay a fingerprinting fee and provide a current set of his or her fingerprints to the board. The petitioner shall execute a form authorizing release to the board or its designee, of all information concerning the petitioner's current physical and mental condition. Information provided to the board pursuant to

1 the release shall be confidential and shall not be subject to  
2 discovery or subpoena in any other proceeding, and shall not be  
3 admissible in any action, other than before the board, to determine  
4 the petitioner's fitness to practice as required by Section 822.

5 (h) The petition shall be verified by the petitioner, who shall  
6 file an original and sufficient copies of the petition, together with  
7 any supporting documents, for the members of the board, the  
8 administrative law judge, and the Attorney General.

9 (i) The board may delegate to its executive officer authority to  
10 order investigation of the contents of the petition, but in no case,  
11 may the hearing on the petition be delayed more than 180 days  
12 from its filing without the consent of the petitioner.

13 (j) The petitioner may request that the board schedule the hearing  
14 on the petition for a board meeting at a specific city where the  
15 board regularly meets.

16 (k) No petition shall be considered while the petitioner is under  
17 sentence for any criminal offense, including any period during  
18 which the petitioner is on court-imposed probation or parole, or  
19 the petitioner is required to register pursuant to Section 290 of the  
20 Penal Code. No petition shall be considered while there is an  
21 accusation or petition to revoke probation pending against the  
22 petitioner.

23 (l) Except in those cases where the petitioner has been  
24 disciplined for violation of Section 822, the board may in its  
25 discretion deny without hearing or argument any petition that is  
26 filed pursuant to this section within a period of two years from the  
27 effective date of a prior decision following a hearing under this  
28 section.

29 4737. The board may deny an application, or may suspend or  
30 revoke a license issued under this chapter, for any of the bases  
31 listed in subdivisions (a) to (c), inclusive.

32 (a) Denial of licensure, revocation, suspension, restriction, or  
33 any other disciplinary action imposed by another state or territory  
34 or possession of the United States, or by any other governmental  
35 agency, on a license, certificate, or registration to practice  
36 alcoholism and drug abuse counseling, or any other healing art,  
37 shall constitute unprofessional conduct. A certified copy of the  
38 disciplinary action decision or judgment shall be conclusive  
39 evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a marriage and family therapist, clinical social worker, or educational psychologist shall also constitute grounds for disciplinary action for unprofessional conduct against the licensee under this chapter.

(c) Written documentation from the State Department of Alcohol and Drug Programs demonstrating that the department has ruled that a certification should be revoked by a private certifying organization.

4738. The board shall revoke any license issued under this chapter upon a decision made in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in Section 729, when that act is with a client, or with a former client when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

4739. The proceedings conducted under this chapter shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

4739.5. Any person who violates any provision of this chapter is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both.

4740. (a) The board shall assess fees for applications, examinations, licensure, renewals, background checks, and other items in amounts sufficient to recover, but not exceed, all administrative, loan, and operating expenses related to this chapter for the fiscal year commencing on the date the fees become effective. The fees collected pursuant to this chapter shall be deposited in the Behavioral Sciences Fund and, upon appropriation by the Legislature, shall be available to the board for carrying out and enforcing this chapter.

(b) Notwithstanding subdivision (a), neither the licensure fee nor the renewal fee shall exceed three hundred dollars (\$300).

(c) Startup funds to implement this chapter shall be derived, as a loan, from the reserve of the Behavioral Sciences Fund, subject to an appropriation by the Legislature in the annual Budget Act. That loan shall be repayed when sufficient fees have been collected

1 pursuant to subdivision (a). The board shall not be required to  
2 implement this chapter until these startup funds have been  
3 appropriated.

4 (d) The board may adjust the deadlines imposed by this chapter  
5 in the event that funds have not been appropriated as described in  
6 subdivision (a) or (c).

7 4741. (a) The board shall report each month to the Controller  
8 the amount and source of all revenue received pursuant to this  
9 chapter and at the same time pay the entire amount thereof into  
10 the State Treasury for credit to the Behavioral Sciences Fund.

11 (b) The Behavioral Sciences Fund shall be used for the purposes  
12 of carrying out and enforcing the provisions of this chapter.

13 (c) The board shall keep any records as will reasonably ensure  
14 that funds expended in the administration of each licensing  
15 category shall bear a reasonable relation to the revenue derived  
16 from each category, and shall so notify the department no later  
17 than May 31 of each year.

18 ~~4745. (a) The board shall enter into a memorandum of~~  
19 ~~understanding with the Director of Alcohol and Drug Programs~~  
20 ~~to address how each agency will work with the other to plan,~~  
21 ~~oversee, and regulate alcohol and drug treatment within the State~~  
22 ~~of California.~~

23 ~~(b) The memorandum of understanding entered into pursuant~~  
24 ~~to subdivision (a) shall address how the agencies will consult and~~  
25 ~~coordinate on the issuance of regulations, certification, or any other~~  
26 ~~directives, guidance, or communications that affect the licensing~~  
27 ~~of alcohol and drug counselors, as defined in this chapter, and the~~  
28 ~~certifications conducted pursuant to Division 10.5 (commencing~~  
29 ~~with Section 11750) of the Health and Safety Code. The~~  
30 ~~memorandum of understanding shall identify circumstances under~~  
31 ~~which the Director of Alcohol and Drug Programs may sit on the~~  
32 ~~board, in an ex officio capacity and as otherwise permitted by law,~~  
33 ~~to discuss items of shared or related responsibility. The provisions~~  
34 ~~of the memorandum of understanding shall be guided by the shared~~  
35 ~~goals of improving consumer protection and ensuring efficient use~~  
36 ~~of resources devoted to treatment of chemical dependency, whether~~  
37 ~~by entities and individuals subject to the regulation by the board~~  
38 ~~or the Department of Alcohol and Drug Programs, or both.~~

39 *4745. In developing regulations and policies that affect the*  
40 *licensing of alcoholism and drug abuse counselors pursuant to*

1 *this chapter, the board shall solicit the advice of representatives*  
2 *of the State Department of Alcohol and Drug Programs to address*  
3 *how each agency will work with the other to plan, oversee, and*  
4 *regulate alcoholism and drug abuse treatment within the state.*

5 SEC. 3. Section 4990 of the Business and Professions Code is  
6 amended to read:

7 4990. (a) There is in the Department of Consumer Affairs, a  
8 Board of Behavioral Sciences that consists of the following  
9 members:

- 10 (1) Two state-licensed clinical social workers.  
11 (2) One state-licensed educational psychologist.  
12 (3) Two state-licensed marriage and family therapists.  
13 (4) After January 1, 2011, one state-licensed alcoholism and  
14 drug abuse counselor.

- 15 (5) Seven public members.

16 (b) Each member, except the seven public members, shall have  
17 at least two years of experience in his or her profession.

18 (c) Each member shall reside in the State of California.

19 (d) The Governor shall appoint five of the public members and  
20 the six licensed members with the advice and consent of the Senate.  
21 The Senate Committee on Rules and the Speaker of the Assembly  
22 shall each appoint a public member.

23 (e) Each member of the board shall be appointed for a term of  
24 four years. A member appointed by the Speaker of the Assembly  
25 or the Senate Committee on Rules shall hold office until the  
26 appointment and qualification of his or her successor or until one  
27 year from the expiration date of the term for which he or she was  
28 appointed, whichever first occurs. Pursuant to Section 1774 of the  
29 Government Code, a member appointed by the Governor shall  
30 hold office until the appointment and qualification of his or her  
31 successor or until 60 days from the expiration date of the term for  
32 which he or she was appointed, whichever first occurs.

33 (f) A vacancy on the board shall be filled by appointment for  
34 the unexpired term by the authority who appointed the member  
35 whose membership was vacated.

36 (g) Not later than the first of June of each calendar year, the  
37 board shall elect a chairperson and a vice chairperson from its  
38 membership.

39 (h) Each member of the board shall receive a per diem and  
40 reimbursement of expenses as provided in Section 103.



1 (i) This section shall become inoperative on July 1, 2009, and,  
2 as of January 1, 2010, is repealed, unless a later enacted statute,  
3 that is enacted before January 1, 2010, deletes or extends the dates  
4 on which it becomes inoperative and is repealed.

5 SEC. 4. Section 4990.18 of the Business and Professions Code  
6 is amended to read:

7 4990.18. It is the intent of the Legislature that the board employ  
8 its resources for each and all of the following functions:

9 (a) The licensure of marriage and family therapists, alcoholism  
10 and drug abuse counselors, clinical social workers, and educational  
11 psychologists.

12 (b) The development and administration of licensure  
13 examinations and examination procedures consistent with  
14 prevailing standards for the validation and use of licensing and  
15 certification tests. Examinations shall measure knowledge and  
16 abilities demonstrably important to the safe, effective practice of  
17 the profession.

18 (c) Enforcement of laws designed to protect the public from  
19 incompetent, unethical, or unprofessional practitioners.

20 (d) Consumer education.

21 SEC. 5. Section 4990.30 of the Business and Professions Code  
22 is amended to read:

23 4990.30. (a) A licensed marriage and family therapist, marriage  
24 and family therapist intern, licensed alcoholism and drug abuse  
25 counselor, licensed clinical social worker, associate clinical social  
26 worker, or licensed educational psychologist whose license or  
27 registration has been revoked, suspended, or placed on probation,  
28 may petition the board for reinstatement or modification of the  
29 penalty, including modification or termination of probation. The  
30 petition shall be on a form provided by the board and shall state  
31 any facts and information as may be required by the board  
32 including, but not limited to, proof of compliance with the terms  
33 and conditions of the underlying disciplinary order. The petition  
34 shall be verified by the petitioner who shall file an original and  
35 sufficient copies of the petition, together with any supporting  
36 documents, for the members of the board, the administrative law  
37 judge, and the Attorney General.

38 (b) The licensee or registrant may file the petition on or after  
39 the expiration of the following timeframes, each of which  
40 commences on the effective date of the decision ordering the

1 disciplinary action or, if the order of the board, or any portion of  
2 it, is stayed by the board itself or by the superior court, from the  
3 date the disciplinary action is actually implemented in its entirety:

4 (1) Three years for reinstatement of a license or registration that  
5 was revoked for unprofessional conduct, except that the board  
6 may, in its sole discretion, specify in its revocation order that a  
7 petition for reinstatement may be filed after two years.

8 (2) Two years for early termination of any probation period of  
9 three years or more.

10 (3) One year for modification of a condition, reinstatement of  
11 a license or registration revoked for mental or physical illness, or  
12 termination of probation of less than three years.

13 (c) The petition may be heard by the board itself or the board  
14 may assign the petition to an administrative law judge pursuant to  
15 Section 11512 of the Government Code.

16 (d) The petitioner may request that the board schedule the  
17 hearing on the petition for a board meeting at a specific city where  
18 the board regularly meets.

19 (e) The petitioner and the Attorney General shall be given timely  
20 notice by letter of the time and place of the hearing on the petition  
21 and an opportunity to present both oral and documentary evidence  
22 and argument to the board or the administrative law judge.

23 (f) The petitioner shall at all times have the burden of production  
24 and proof to establish by clear and convincing evidence that he or  
25 she is entitled to the relief sought in the petition.

26 (g) The board, when it is hearing the petition itself, or an  
27 administrative law judge sitting for the board, may consider all  
28 activities of the petitioner since the disciplinary action was taken,  
29 the offense for which the petitioner was disciplined, the petitioner's  
30 activities during the time his or her license or registration was in  
31 good standing, and the petitioner's rehabilitative efforts, general  
32 reputation for truth, and professional ability.

33 (h) The hearing may be continued from time to time as the board  
34 or the administrative law judge deems appropriate but in no case  
35 may the hearing on the petition be delayed more than 180 days  
36 from its filing without the consent of the petitioner.

37 (i) The board itself, or the administrative law judge if one is  
38 designated by the board, shall hear the petition and shall prepare  
39 a written decision setting forth the reasons supporting the decision.  
40 In a decision granting a petition reinstating a license or modifying

1 a penalty, the board itself, or the administrative law judge, may  
2 impose any terms and conditions that the agency deems reasonably  
3 appropriate, including those set forth in Sections 823 and 4990.38.  
4 If a petition is heard by an administrative law judge sitting alone,  
5 the administrative law judge shall prepare a proposed decision and  
6 submit it to the board. The board may take action with respect to  
7 the proposed decision and petition as it deems appropriate.

8 (j) The petitioner shall pay a fingerprinting fee and provide a  
9 current set of his or her fingerprints to the board. The petitioner  
10 shall execute a form authorizing release to the board or its designee,  
11 of all information concerning the petitioner's current physical and  
12 mental condition. Information provided to the board pursuant to  
13 the release shall be confidential and shall not be subject to  
14 discovery or subpoena in any other proceeding, and shall not be  
15 admissible in any action, other than before the board, to determine  
16 the petitioner's fitness to practice as required by Section 822.

17 (k) The board may delegate to its executive officer authority to  
18 order investigation of the contents of the petition.

19 (l) No petition shall be considered while the petitioner is under  
20 sentence for any criminal offense, including any period during  
21 which the petitioner is on court-imposed probation or parole or  
22 the petitioner is required to register pursuant to Section 290 of the  
23 Penal Code. No petition shall be considered while there is an  
24 accusation or petition to revoke probation pending against the  
25 petitioner.

26 (m) Except in those cases where the petitioner has been  
27 disciplined for violation of Section 822, the board may in its  
28 discretion deny without hearing or argument any petition that is  
29 filed pursuant to this section within a period of two years from the  
30 effective date of a prior decision following a hearing under this  
31 section.

32 SEC. 6. Section 4990.38 of the Business and Professions Code  
33 is amended to read:

34 4990.38. The board may deny an application or may suspend  
35 or revoke a license or registration issued under the chapters it  
36 administers and enforces for any disciplinary action imposed by  
37 another state or territory or possession of the United States, or by  
38 a governmental agency on a license, certificate or registration to  
39 practice marriage and family therapy, clinical social work,  
40 educational psychology, alcoholism or drug abuse counseling, or

1 any other healing art. The disciplinary action, which may include  
2 denial of licensure or revocation or suspension of the license or  
3 imposition of restrictions on it, constitutes unprofessional conduct.  
4 A certified copy of the disciplinary action decision or judgment  
5 shall be conclusive evidence of that action.

6 ~~SEC. 7. Section 11776.5 is added to the Health and Safety~~  
7 ~~Code, to read:~~

8 ~~11776.5. (a) The department shall enter into a memorandum~~  
9 ~~of understanding with the Board of Behavioral Sciences to address~~  
10 ~~how each agency will work with the other to plan, oversee, and~~  
11 ~~regulate alcohol and drug treatment within the State of California.~~

12 ~~(b) The memorandum of understanding entered into pursuant~~  
13 ~~to subdivision (a) shall address how the agencies will consult and~~  
14 ~~coordinate on the issuance of regulations, certification, or any other~~  
15 ~~directives, guidance, or communications that affect the licensing~~  
16 ~~of alcohol and drug counselors, as defined in Chapter 10.5~~  
17 ~~(commencing with Section 4700) of Division 2 of the Business~~  
18 ~~and Professions Code and the certifications conducted pursuant to~~  
19 ~~this division. The memorandum of understanding shall identify~~  
20 ~~circumstances under which the Director of Alcohol and Drug~~  
21 ~~Programs may sit on the Board of Behavioral Sciences, in an ex~~  
22 ~~officio capacity and as otherwise permitted by law, to discuss items~~  
23 ~~of shared or related responsibility. The provisions of the~~  
24 ~~memorandum of understanding shall be guided by the shared goals~~  
25 ~~of improving consumer protection and ensuring efficient use of~~  
26 ~~resources devoted to treatment of chemical dependency, whether~~  
27 ~~by entities and individuals subject to the regulation by the Board~~  
28 ~~of Behavioral Sciences or the department, or both.~~

29 ~~SEC. 8.~~

30 ~~SEC. 7.~~ No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution because  
32 the only costs that may be incurred by a local agency or school  
33 district will be incurred because this act creates a new crime or  
34 infraction, eliminates a crime or infraction, or changes the penalty  
35 for a crime or infraction, within the meaning of Section 17556 of  
36 the Government Code, or changes the definition of a crime within  
37 the meaning of Section 6 of Article XIII B of the California  
38 Constitution.